

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SF ENTITIES INC.,

Plaintiff,

– against –

GAMBURG et al,

Defendants.

ANN M. DONNELLY, United States District Judge:

Before the Court is Magistrate Judge Marcia Henry's report and recommendation, recommending that the plaintiff's motion for default judgment be denied. For the following reasons, I adopt the report and recommendation in full.

On June 28, 2023, the plaintiff sued the defendants—Dr. David Gamburg and Cova Laboratories LLC—for breach of contract, among other claims. (ECF No. 1.) The plaintiff served the defendants on July 12 and August 7, 2023, respectively. (ECF No. 8, 11.) Gamburg’s answer was due on August 2, 2023. When he did not respond, the plaintiff requested a certificate of default (ECF No. 9.), which the Clerk of Court granted on August 10, 2023. (ECF No. 12.) Gamburg answered the complaint later that same day (ECF No. 13); the plaintiff moved for default judgment against Gamburg on August 11, 2023. (ECF Nos. 13, 14.) On August 18, 2023, the defendants moved to set aside the default against Gamburg. (ECF No. 19.) On August 23, 2023, Judge Henry granted the defendants’ motion to vacate default as to Gamburg, over the plaintiff’s objections. (*ECF Order dated August 23, 2023.*) Judge Henry issued her report and recommendation on August 30, 2023. (*ECF Order dated August 30, 2023.*) Neither party has objected to the report and recommendation, and the time for doing so has passed.

A district court reviewing a report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). To accept a report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *VOX Amplification Ltd. v. Meussdorffer*, 50 F. Supp. 3d 355, 369 (E.D.N.Y. 2014).

I have carefully reviewed Judge Henry’s well-reasoned report and recommendation for clear error and find none. Accordingly, I adopt the report and recommendation in its entirety. The plaintiff’s motion for default judgment is denied.

CONCLUSION

For these reasons, I adopt the recommendation and report in its entirety. The plaintiff’s motion for default judgment against defendant Gamburg is denied without prejudice.

SO ORDERED.

s/Ann M Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
October 2, 2023